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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/340,908 06/28/99 DE LA TORRE

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022249 QM12/1014
LYON AND LYON LLP
SUITE 4700
633 WEST FIFTH STREET
LOS ANGELES CA 90071-2066

EXAMINER

KLINE, E

ART UNIT

PAPER NUMBER

3763

DATE MAILED:

10/14/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/340,908

Applicant(s)
De La Torre

Examiner
Eric Kline

Group Art Unit
3763



☒ Responsive to communication(s) filed on Jun 28, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-14 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-14 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hillstead, US Patent 5,071,411. Hillstead teaches a sealing device comprising a tube (12), proximal end having a larger diameter (14) than distal end, and an inflatable membrane (42) disposed within inner bore. Hillstead teaches all applicant's structural limitations, therefore it would have been obvious to one of ordinary skill in the art to use the device of Hillstead to perform the method of applicant.

Claims 2-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hillstead in view of Hunt et al., US Patent 5,273,545. Hillstead discloses applicant's invention substantially as claimed. Hillstead does not teach a fastening means on said outer surface of said tube; fastening means comprising screw threads or circumferential ribs; plurality of protrusions extending from outer surface; plurality of protrusions extending inwardly. Hunt et al. does teach a fastening means on said outer surface of said tube; fastening means comprising screw threads or circumferential ribs; plurality of protrusions extending from outer surface. Ribs (16) of Hunt et al. are screw threads, circumferential ribs, and a plurality of protrusions. Hunt et al. also teaches

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plurality of protrusions extending inwardly (13). It would have been obvious to one of ordinary skill in the art to modify the invention of Hillstead to include ribs and protrusions extending inwardly as taught by Hunt et al. so that device would remain in place in a surgical site and so that the surgical site would be sealed from the environment. Furthermore, Hillstead in view of Hunt et al. teach all of applicant's structural limitations, therefore it would have been obvious to one of ordinary skill in the art to use the combination of Hillstead in view of Hunt et al. to perform the methods of applicant.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Kline whose telephone number is (703) 305-7350. The examiner can normally be reached on Monday-Thursday from 8:00am to 5:30pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on (703) 308-1344. The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4520.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

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~~WYNN WOOD COGGINS~~
~~SUPERVISORY PATENT EXAMINER~~

October 12, 1999

Eric Kline



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WYNN WOOD COGGINS
SUPERVISORY PATENT EXAMINER